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LETTER DATED 27 AUGUST 1999 FROM THE PERMANENT REPRESENTATIVE OF CROATIA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

Upon instructions from my Government, I have the honour to enclose the statement of the Government of the Republic of Croatia (see annex) in regard to the letter dated 25 August 1999 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 addressed to the President of the Security Council (S/1999/912).

I would kindly request your assistance in distributing the present letter and its annex as a document of the Security Council.

(Signed) Ivan SIMONOVIĆ
Ambassador
Permanent Representative

99-24812 (E) 270899

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Annex

Public statement dated 26 August 1999

The Government of the Republic of Croatia at its session on Thursday, 26 August 1999, having taken into account the report and opinions of the Council for Relations with the International Court of Justice and the International War Crimes Tribunal on the report filed by the President of the Tribunal, Gabrielle Kirk McDonald, against Croatia to the United Nations Security Council, has following a thorough discussion come to the following conclusions:

1. The Tribunal's claim concerning Croatia's alleged non-cooperation is not founded on facts. For example, Croatia had from the very beginning of Serb aggression advocated the need to establish such a Tribunal, and cooperated with the Tribunal prior to and especially following the adoption of the Constitutional Law on Cooperation with the Tribunal, both in terms of the extradition of all Croats indicted to date, including the recent extradition of Vinko Martinović, and the surrender of documents, data, reports, hearings, findings by various commissions, etc. Cooperation with the Tribunal has been maintained in coordination between the Office for Cooperation with the Tribunal and the Ministries of Justice, Interior, Defence and Foreign Affairs and other Croatian authorities.

2. As for Mladen Naletelić, who is standing trial before a Croatian court on charges of grave criminal acts, proceedings are under way at the Zagreb County Court to ascertain whether conditions exist for his extradition. The Croatian Minister of Justice in his letter of 18 August 1999, addressed to the Chief Prosecutor's Office of the Tribunal, with a copy thereof forwarded to the President of the Tribunal, confirmed Croatia's commitment and readiness to extradite Mr. Naletelić, provided that the said court proceedings find that conditions for his extradition do exist pursuant to the Constitutional Law on Cooperation with the Tribunal. Therefore, it is a matter of having the current legal procedures in this matter concluded, which have now been delayed because of serious health problems experienced by the accused, which has been confirmed by medical experts of the Court.

3. In regard to the claim concerning alleged non-cooperation in the inquiry into operations "Flash" and "Storm", it is the Croatian Government's firm position that the justification of these military and police operations, which were entirely legitimate and carried out in compliance with international law, cannot be brought into question. Consequently, the Croatian Government believes that the Tribunal has no jurisdiction over them. Moreover, these operations were crucial for the liberation of parts of Bosnia and Herzegovina under Serb occupation and were thus instrumental in bringing about the Dayton accords. Determining whether the Tribunal is legally competent to address events that occurred during or following the said operations is solely the responsibility of the Trial Chamber of the Tribunal, not the Prosecutor or the President of the Tribunal.

4. By the end of the month of August 1999, Croatia will publish and make available a White Book on its cooperation with the Tribunal, which will in turn

show that the claim concerning Croatia's non-cooperation is unfounded. Evidence will also be presented on criminal proceedings which have been conducted or are being conducted against the perpetrators of criminal acts shortly after the military and police operations "Flash" and "Storm". Croatia also intends to bring charges against those chiefly responsible for crimes committed by the Yugoslav National Army and other paramilitary forces during the aggression against Croatia from 1991 to 1995, particularly crimes committed in the towns of Vukovar, Dubrovnik, Škabrnja, Lovinac, Saborsko, Voćin, Hrvatska Kostajnica and other places where extensive crimes were committed.

5. In its contacts with all relevant international organizations and foreign Governments, the Croatian Government plans to present its views and explain its position, which will be corroborated by facts, and will appeal for understanding and support. We are firmly convinced that reactions must be guided by legal considerations only.

The Croatian Government cannot quite rule out doubts that political pressure is being exerted against it in connection with the forthcoming parliamentary elections.

The Croatian Government believes that the international community, as well as the United Nations Security Council, will express full understanding for the actual state of affairs and that the arguments put forward by the Croatian Government will prove that it has hitherto cooperated and will continue to cooperate with the Tribunal in the future.